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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1365th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 October 1994, at 3 p.m.

Chairman: Mr. ANDO

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Morocco (CCPR/C/76/Add.3 and 4; HRI/CORE/1/Add.23) (continued)

1. At the invitation of the Chairman, Mr. Majdi, Mr. Lididi, Miss Belmir and Mr. Aboutahir (Morocco) resumed their places at the Committee table.

2. The CHAIRMAN invited the Moroccan delegation to respond to the questions in section II of the list of issues, which read:

"II. Right to life; treatment of prisoners and other detainees; liberty and security of the person; right to a fair trial (arts. 6, 7, 9, 10 and 14)

(a) Has the death penalty been imposed and carried out since the consideration of the second periodic report and for what crimes? In view of the fact that, in practice, such penalty is generally commuted to life imprisonment, is any consideration being given to the abolition of the death penalty and ratification of, or accession to, the Second Optional Protocol? (See para. 31 of the report)

(b) Have there been any violations of the rules and regulations governing the use of weapons by the police and security forces and, if so, what measures have been taken against those found guilty, to compensate the victims, and to prevent the recurrence of such acts?

(c) What concrete measures have been taken by the authorities to ensure the observance of article 7 of the Covenant? Have there been complaints during the period under review of torture or cruel, inhuman or degrading treatment or punishment of persons deprived of their liberty? If so, has any investigation been carried out in respect of such violations and has any action been taken to punish those found guilty of such acts? Can confessions or testimony obtained under duress be used in court proceedings?

(d) Please provide further information on arrangements for the supervision of prisons and any other places of detention and on procedures for receiving and investigating complaints about conditions and treatment in such places.

(e) Please provide additional information on measures taken to follow up on the recommendations of the Advisory Council on Human Rights aiming at the updating of the prison legislation and regulations to bring them into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (see paras. 44 and 45 of the report).

(f) Please provide further information on the jurisdiction, competence, composition and activities of the military courts referred to in paragraph 59 of the report and clarify their position within the judicial system."

3. Mr. MAJDI (Morocco), replying to question (a), said that the death penalty was applied in Morocco only for the most heinous or abhorrent crimes in respect of which the court had failed to establish mitigating circumstances. Abolition of the death penalty was not envisaged, but its application was subject to essential guarantees. An appeal had to have been lodged by the condemned person or by the Prosecutor General and, in the event of rejection, a petition for reprieve was always lodged. In practice, the death penalty was generally commuted to life imprisonment. During the current year, 196 death sentences had been commuted to life imprisonment by royal reprieve. The only execution actually carried out had concerned a police officer. For the time being, there were no plans to ratify the Second Optional Protocol.

4. In reply to question (b), he said that the use of firearms by the armed forces, the police and auxiliary forces was regulated. Anyone violating the regulations was subject to disciplinary proceedings which could entail reduction to a lower rank, dismissal or criminal prosecution. In the event of serious professional misconduct, the Government could set up a commission of inquiry. The regulations also covered armed threats. Police statistics for 1993 showed that three police officers had been dismissed for threats with firearms and arbitrary arrest. Royal Gendarmerie statistics showed that sentences had been imposed on two gendarmes who had threatened citizens with firearms.

5. Turning to question (c), he said that some excesses had, on occasion, been committed and certain reprehensible acts had been deliberately perpetrated by State officials, but such acts were severely punished. Training in human rights was included in the curricula of police and gendarmerie schools with a view to making the personnel aware of the need to abide by the law in all circumstances. So far as punishment was concerned, 1,456 gendarmes had been dismissed from the Royal Gendarmerie since 1974; 775 of them had been prosecuted for professional misconduct and 681 had been struck off the list by the Disciplinary Commission. Of those prosecuted, 319 had been found to have committed offence against the dignity or property of citizens, including: abuse of power, 10; false imprisonment, 2; maltreatment, 6; illegal entry, 11; corruption, 92; voluntary homicide, 4; swindling, 11; voluntary assault and wounding, 12; threats with firearms, 2. The officers in question had been sentenced to penalties ranging from 2 months' to 20 years' imprisonment. Since 1974, 30 cases of suicide of persons in custody had occurred at police stations. Thorough judicial inquiries had been conducted and severe penalties had been imposed on personnel found guilty of improper conduct.

6. In reply to question (d), he said that so far as the supervision of prisons was concerned, it should be noted that a member of the magistrature had been appointed to head the Prison Administration in order to supervise the satisfactory operation of prisons and to ensure that detainees were treated in a humane spirit and their dignity preserved. Under article 660 of the Code of

Criminal Procedure, the Central Administration was required to carry out inspections and make frequent visits to places of detention so as to enable detainees to state their complaints and to rectify any shortcomings. The Code also required representatives of the public prosecutor's office to investigate in situ the living conditions of detainees; in the case of persons in pre-trial detention, the same obligation was incumbent upon the investigating magistrate. Under article 661 of the Code, a supervisory commission established in each province or prefecture was required to oversee salubrity, security and hygiene in prisons and the diet and material living conditions of detainees. The commission was presided over by the governor or his deputy, assisted by the president of the court and the prosecutor, as well as by the regional medical officer. It also included voluntary members appointed by the Minister of Justice. The commission, which was empowered to visit prisons in the province or prefecture concerned, transmitted its observations and criticisms to the Minister of Justice and drew attention to abuses or necessary improvements. It could recommend any detainees whom it thought deserving of a reprieve to the Reprieves Commission. The Advisory Council on Human Rights had recently recommended an expansion of the membership to include representatives of the Ministries of Labour, Professional Training, Finance and National Education and the chairman of the commune. In practice, prison visits under article 660 of the Code were made frequently by procurators and investigating magistrates, but the work of the supervisory commissions suffered from a certain lack of regularity. So far as other places of detention were concerned, the crown procurator was required to visit places of custody, to ascertain the conditions of arrest and detention, and to make sure that police records were kept properly.

7. Replying to question (e), he said that, following the recommendations of the Advisory Council on Human Rights for the redrafting of prison legislation and regulations with a view to bringing them into line with the United Nations Standard Minimum Rules (cf. CCPR/C/76/Add.3, para. 44), the draft already prepared by the Ministry of Justice had been modified and the legal review procedure was currently in progress.

8. Lastly, replying to question (f), he said that there was only one military court in Morocco. It was presided over by a judge of the Court of Appeal and its rulings were subject to the control of the Supreme Court within the framework of appeals for annulment. Its jurisdiction ratione materiae extended to offences committed by military or assimilated personnel in peace-time as well as in war-time, and every guarantee of fair trial was provided by law.

9. Mrs. EVATT, referring to article 9 of the Covenant, said that she welcomed the changes introduced in the duration of police custody but felt that the permissible duration was perhaps still too long. As for the duration of pre-trial detention (para. 43 of the report), she welcomed the new maximum of 12 months but noted that, according to the Moroccan Organization for Human Rights, release at the end of 12 months was not automatic but still required an order of the investigating magistrate. She wondered why that should be so in view of the provisions of article 154 of the Code of Criminal Procedure.

10. There were also concerns about the implementation of article 9 (4) of the Covenant, in connection with which the same organization reported that a court

could deal with a complaint of unlawful arrest or detention brought by a detainee only if it was already seized of the file of the case. Thus, a trade union leader was reported to have been held in preventive detention although the offence with which he had been charged - a press offence - was not subject to preventive detention under the Code. His challenge of the lawfulness of his detention had not been dealt with until the case had come up before the Court of Appeal 12 months later. She would be interested to know what procedures were available to ensure that applications for review were dealt with without delay.

11. With regard to article 10 of the Covenant, she welcomed the new provisions for supervision of prisons and improvement of prison conditions and hoped that they would be brought into effect as soon as possible in view of the obsolete nature of the laws currently in force. She also welcomed the information contained in paragraph 60 of the report that new, spacious and well-ventilated prisons had been built to deal with the problem of overcrowding. How many such prisons had been built and what proportion of the prison population was accommodated in them?

12. Under article 14 of the Covenant, she noted that paragraph 51 of the report spoke of the independence of the judiciary but made no mention of specific guarantees against the removal of judges. The explanations given in the report left Morocco open to criticism because of the uncertainty of the position of judges, too many of whose powers could be limited by order of the Minister of Justice. Such uncertainty was bound to be reflected in a lowering of protection of accused persons. More information on that score would be appreciated.

13. Lastly, she asked for further information about the special court of justice set up to try cases involving public officials or judges. How and by whom was it constituted? Material provided to Committee members indicated that under the Code of Criminal Procedure members of the Government, Supreme Court judges, provincial governors and prosecutors as well as officers of the judicial police enjoyed a privileged position in that they could be prosecuted only by the Procurator-General. Was the existence of the special court compatible with the requirements of article 14, especially if its proceedings took place in private?

14. Mr. EL SHAFEI, referring in his turn to paragraph 43 of the report, said that it was not clear to him whether the maximum duration of pre-trial detention was 10 or 12 months. In his view, 12 months would be too long. Referring to paragraph 59 of the report, he asked whether civilians could be tried by military courts. Was there a right of appeal, and if so, how was it exercised?

15. Mrs. HIGGINS, having thanked the Moroccan representative for the very specific answers he had given, asked in connection with question (c) whether the names of the persons punished had been made known. With regard to article 6 and more generally, she wondered whether a formal application was required in order to qualify for the royal amnesty; prisoners of conscience who denied wrongdoing would perhaps be reluctant to make such an application, in which case they might be excluded from the amnesty. Information on that point and on the criteria employed in granting the amnesty would be welcome.

She would also be interested to know what guidance on sentencing, if any, was provided to judges. Some sentences that were handed down seemed to be related not so much to the offence as to the prevailing political atmosphere.

16. Mr. BRUNI CELLI said he was very sorry to hear that Morocco was not planning to ratify the Second Optional Protocol and hoped that Morocco would reconsider its position before the fourth periodic report fell due. Referring to paragraph 31 of the report, he drew attention to a discrepancy between the English text and the Spanish translation, whose wording suggested that the death penalty could be imposed on persons convicted of extremely serious crimes of an economic nature. He wondered whether that was a mistranslation, and if not, whether the death penalty in such cases was really justified. He also wished to know how long it took for a death sentence to be commuted to life imprisonment. In view of the many deaths reported to have taken place in Morocco at the hands of State officials, a still more detailed answer to question II (c) was called for. Were such cases reported? Were they brought before the courts, and what penalties were imposed? Had any complaints of torture in custody been received during the past four years? If so, had they been investigated, and had those found guilty been punished?

17. Mr. WENNERGREN, noting that Morocco had four separate organizations for the exercise of supervision and control of the population, asked how many members each corps had. Supervision of the population in Morocco was said to be very active and effective, so that it could be supposed that the various control organizations were rather large, the risk of arbitrariness increasing proportionally. It would be interesting to know who controlled the controllers, and how.

18. Mrs. CHANET noted that the third periodic report was being examined in more relaxed circumstances than the previous one. However, certain specific points had still not been addressed satisfactorily. With regard to the application of article 9 of the Covenant concerning the principles of detention, she noted that much of the old legislation was still in force and there appeared to be a number of different ways of extending periods of detention. What were the absolute maximum detention periods allowed under ordinary law and military law?

19. With regard to decision No. 21/1993 (E/CN.4/1994/27) concerning the case of Noubir El Amaoui, which had been transmitted to the Government of Morocco, she asked why no reply had been received from the Government and what was its response now.

20. Turning to the question of Tazmamart prison, which had been brought to the attention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, she noted that no clear information had been forthcoming from the Moroccan authorities concerning the fate of the 30 prisoners incarcerated there before its demolition and nothing was known about their current whereabouts. Could the delegation shed any light on that?

21. She also drew the delegation's attention to a report that 15 prisoners had died in Casablanca prison during 1993 as a result of malnutrition and sickness, and asked whether that was a reflection of generally poor hygiene and nutrition in the prison system.

22. Finally, referring to question II (e) of the list of issues, she asked whether moves were now being made, following recommendations by the Advisory Council on Human Rights, to provide alternatives to imprisonment such as community service.

23. Mr. PRADO VALLEJO said that the Moroccan authorities had refused to discuss the many allegations of disappearances. There were credible reports to indicate that hundreds of people had been held incommunicado, in some cases for years, at remote locations not on the official list of detention centres, without any explanation being given to them or to their families. That caused unimaginable anguish and amounted to a crime which it was the duty of any State to prevent. People who had disappeared and subsequently been released were reluctant to discuss their experiences for fear of reprisals by the authorities, which persisted in maintaining a wall of silence in the face of all inquiries by human rights bodies. Which particular departments in the Ministry of the Interior were responsible for dealing with such disappearances? What were the locations of the secret prisons and detention centres?

24. Mr. BAN endorsed the concerns voiced by previous speakers, and said he had a number of specific questions of his own.

25. His first question concerned the activities of the secret detention centre of Tazmamart. At the time of the second periodic report, the delegation of Morocco had said that it would ask its Government for information on the matter. Had any investigations been conducted into the activities of the centre and had any individuals been prosecuted for committing human rights violations there? What compensation, if any, had victims received?

26. Secondly, was it correct, as a report of the United States Department of State had claimed, that the leader of the banned Islamist organization Justice and Charity had been kept under house arrest following a two-year period in detention without trial? If that were the case, it would be a form of restriction of liberty of which no mention had been made in the periodic report.

27. Thirdly, with regard to the protection of the right to life, was it true, as the Department of State report had also suggested, that Moroccan law applied unequal protection in exonerating a man responsible for killing or injuring his wife when caught in the act of adultery, while a woman who found her husband in the act of adultery and injured him would enjoy no such clemency?

28. Mr. AGUILAR URBINA recalled that it was questions under section II of the list of issues that had created the most problems when the second periodic report had been examined. While there was evidence of some progress, there were still many areas of concern.

29. The phenomenon of disappearances was particularly disturbing. Citing an Amnesty International report, he noted that in 1991 over 300 disappeared persons had been released following an amnesty. No reasons had ever been given for their detention, nor did the authorities appear to have made any

attempt to find and prosecute those responsible and compensate the victims. Both the initial detention and the amnesty appeared to be arbitrary, and in general the rules governing such amnesties were not at all clear. In another case, five prisoners of conscience had been sentenced in 1984 to the same term of imprisonment for the same offence; two had subsequently been released and three remained in prison. Surely such differential treatment was in breach of article 26 of the Covenant, according to which all persons were equal before the law.

30. Turning to paragraph 31 of the Spanish text of the report, and taking up questions raised by Mr. Bruni Celli and Mr. Prado Vallejo, he noted that the death penalty could apparently be applied in cases of crimes committed for profit. Was that in fact the case and, if so, were moves being made to repeal that provision?

31. Mr. MAJDI (Morocco), referring to the questions which had been raised regarding alleged disappearances, said that the position of the Moroccan Government had been set out in the official statement to Parliament by the Minister for Human Rights on 15 June 1994. The matter was a sensitive and complex one, since many of the allegations related to events which had taken place 20 years previously, and the allegations had also been maliciously exploited in certain circles. The Government of Morocco was fully committed to carrying out full and objective investigations into all allegations of human rights violations. In doing so it was guided by three basic concerns: to assist all those affected by such violations and all interested bodies to collect as much information as possible; to mobilize all relevant official ministries and departments to uncover the truth; and to take all necessary measures to provide redress when violations were found to have occurred.

32. He further noted that there had been allegations of between 200 and 500 disappearances of Saharans, depending on the source. Inquiries conducted by the International Committee of the Red Cross (ICRC), however, had suggested a far lower figure: 40 persons, officially identified, had been killed in fighting, 2, also officially identified, had died of natural causes; and another 53 were being held by the Moroccan army at Agadir in conditions said by the ICRC to be very good. Death certificates would be issued to the families of those who had died to help them come to terms with the past, and they would also receive counselling.

33. Replying to questions concerning the fate of prisoners at the Tazmamart prison, he said that 26 of the people housed in the prison before it had been destroyed had received substantial financial compensation from the Government and would receive any medical assistance they required. The families of the 34 persons who had died would be notified and given help in overcoming the trauma.

34. With regard to the alleged unlawful detention of members of the Beni-Hashem tribe, he noted that seven persons had requested official assistance and an investigation was being carried out. Appropriate measures would be taken in the light of the results of that investigation and in conformity with established human rights principles.

35. As for the Saharans who had been imprisoned at the Mguna fortress and released in June 1991, most had now been fully reintegrated into society and were leading normal lives. Of the 280 persons released, 109 had requested assistance or relief either directly or through human rights organizations. Every possible effort was being made by the Government to ensure their successful reintegration.

36. With regard to other allegations still under investigation, the Government was in possession of a list of 60 names based on information received from various sources. For six of the names on that list, precise information was available and an official inquiry was now under way. In the case of the other persons named on the list, little other information had thus far come to light. Depending on the results of those investigations, the authorities would take steps to release persons unlawfully detained and would inform the public. The Government would cooperate with any body which could provide any concrete information of relevance to those investigations.

37. With regard to allegations of secret detention centres made by the Advisory Council on Human Rights, the Moroccan authorities had stated their willingness to give all possible assistance to anybody who wished to pursue inquiries into that matter.

38. Miss BELMIR (Morocco), replying to the question on the status of women in relation to article 418 of the Criminal Code, said that the whole of the Criminal Code was currently under review. The committee responsible for the review had so far completed work on the first 120 articles of the text. Its mandate included amending all parts of the Code so as to eliminate any wording that discriminated between men and women.

39. Questions had been asked about the legal and constitutional guarantees for the independence of the judiciary. As a member of the judiciary herself, she could vouch for the fact that that independence had never been threatened or abused in Morocco, nor had the practice of the profession been interfered with. The exercise of the judicial profession was regulated by law and subject to a number of principles, which included competence, impartiality and authority to pass judgement. In their work, judges were subject to the authority of the Higher Council of the Magistrature, which ruled on all aspects of judicial practice and submitted proposals thereon to the King for his approval.

40. Mr. LIDIDI (Morocco), replying to questions on pre-trial detention, said that the Criminal Code had recently been amended to limit the period of such detention to two months. However, to meet the requirements of investigation of the offence concerned the order for pre-trial detention could be renewed up to five times, thus setting the maximum total period of pre-trial detention at one year. That was admittedly rather long, but the matter was not entirely under the control of the examining magistrate; the detainee himself could prolong matters by an appeal, which might pass through several levels of court proceedings. In the case of persons apparently held in pre-trial detention for over a year, the examining magistrate might decide, as provided in the Criminal Code, that the case should be transferred to another court, whereupon any further decisions relating to the case would be under the jurisdiction of that court.

41. Administrative and other matters concerning prisons were governed by prison legislation which went back to 1930 or 1915 in some cases. A parliamentary bill had already been drafted to amend some provisions of that legislation which were no longer considered necessary. However, its passage through parliament had been delayed since the Advisory Council on Human Rights had wished to add further wording to ensure perfect harmony among the provisions for a minimum standard of treatment of prisoners. The amended bill was currently going through the normal stages of the adoption process. In addition to those aspects of prison administration covered by the law, there were others that came under the authority of the executive. The Ministry of Justice had not sat idly by awaiting passage of the relevant legislation but had already dispatched memorandums to all prison governors enjoining them to respect the Standard Minimum Rules for the Treatment of Prisoners. It had also published a prisoners' guide to those rules, which was available to all detainees. A copy of the guide could be made available to the Committee on request. An open circular that all prisoners might read had been sent to prisons instructing them to comply with those rules.

42. In addition, training courses were provided to instruct prison officers on the minimum requirements for treatment of prisoners and on the code of ethics that should regulate their work. However, the sharp increase in the prison population had made application of the rules difficult, especially those relating to the space allowed prisoners. Despite the economic crisis, the Government had recently doubled the prison budget and had set aside a special fund to enlarge five prisons and carry out other projects. Two new prisons, which met the requisite standards for safeguarding the dignity of detainees, had been built during 1994.

43. It was normal that some deaths should occur in prisons. However, since it was incumbent on the administration to make sure that abuse or negligence had not been a contributory cause, autopsies had been carried out in the case of all deaths occurring in prison since 1992. The Ministry of Health and the Ministry of Justice had collaborated in 1994 in convening a seminar on medical care in prisons, which had received advisory assistance from two French experts. The two ministries had also cooperated on the subject of prison food and the diet needed to keep prisoners in good health.

44. Deprivation of liberty was a problem which a committee, consisting of university teaching staff, representatives of the Ministry of Justice and others, was currently considering to see what alternatives could be found to prison sentences for persons committing minor offences. Such action could help to relieve overcrowding in jails and assist in the rehabilitation of such offenders.

45. The amnesty which had been declared was the sole prerogative of the King. When he had decided that the time had come to turn the page, he had entrusted the Advisory Council on Human Rights with the task of selecting the political offenders to be released, with the exception of those guilty of murder. The list thus drawn up had not been a closed one; further persons had since come forward to claim amnesty and the Council and the Ministry of Justice were reviewing all such applications on a case-by-case basis.

46. The Code of Criminal Procedure made provision for action to be taken in respect of offences committed by members of the judiciary or other public officials; safeguards were thus provided against the abuse of judicial powers.

47. Morocco had one permanent military court, presided over by a civil judge selected from among the civil magistrature. Any penalties or sentences imposed by the court were open to appeal to the Supreme Court. In the proceedings in the military court, the same legal safeguards were available for accused persons as elsewhere, such as the appointment of defence counsel and access to information on the charges brought.

48. The definition of a serious crime did not fall within the province of the courts but was laid down in the Criminal Code, which also specified the penalties for those convicted of such a crime. However, it was the court's prerogative to decide whether the accused could benefit from mitigating circumstances. The death penalty was not carried out until all legal remedies had been exhausted. The large number of prisoners under sentence of death who were still being held without execution was an indication that the climate of opinion on the subject was changing in Morocco.

49. The lawfulness of the house arrest referred to in one question was still under appeal to the Supreme Court, which had not yet considered the matter.

50. Mr. AGUILAR URBINA, while welcoming the trend to greater transparency regarding detainees and prisons that was evident each time Morocco came before the Committee, said he still had a number of concerns with respect to disappeared persons. According to information provided by the International Federation of Red Cross and Red Crescent Societies, 40 such persons had died in battle. What kind of conflicts were involved and where had they taken place? Two of the disappeared had apparently died a natural death and 53 were still being held by the army in Agadir. Why and how had the latter been arrested and for what offence were they being detained? A total of between 105 and 405 persons, depending on the source of information, were said to have disappeared. The authorities claimed they did not exist, but the fact the deaths of 95 of them had been acknowledged pointed to a clear contradiction.

51. The Committee had been informed that Tazmamart prison had been destroyed three to four years previously. However, no death certificates had yet been issued for the 34 detainees who had died there, many of whom had continued in detention despite having completed their sentences. That was all the more serious in that death certificates were being issued to family members of other deceased detainees. It was also a matter of concern that despite the wish to turn the page there was apparently no urge to investigate those deaths or identify the persons concerned.

52. The question asked previously by the three Latin American members of the Committee with regard to crimes subject to the death penalty had not yet been answered.

53. Mrs. HIGGINS said that she, too, welcomed the greater openness being shown in discussing detainees. However, although the fate or whereabouts of many detainees was now clearer, that did not legitimize either their death or

their detention. As for the disappeared persons still unaccounted for, the fact of their existence or otherwise would no doubt be made clear in the future following further investigation.

54. In order to close the book properly on the unfortunate events of the past, it should perhaps not be the task of the Ministry of Justice alone to conduct such inquiries, even though families and relevant organizations were being allowed to participate. The financial and medical help being given to those released from Tazmamart could be considered as a form of compensation. Was such compensation also being offered to the 200 Saharans released? Compensation, however admirable in itself, would not be sufficient to put the matter to rest. Only identification and punishment of those responsible would do so, since it would make plain that there was no impunity for such action and prevent any repetition.

55. Mr. LIDIDI (Morocco) said that death certificates had already started to be issued. He drew Mr. Aguilar Urbina's attention to a recent television broadcast in which the Minister for Human Rights had publicly stated that death certificates for persons who had died in the circumstances described were available and that the families concerned should now come forward to regulate their civil status. Payment of compensation consisting of 5,000 dirhams a month to each person concerned had begun in February 1994. On the matter of inquiries, the question would have to be referred back to the authorities, which would provide a written reply.

56. Mr. WENNERGREN said that he found the turn of the discussion puzzling. It had become clear to the Committee at an earlier stage that the reason that ministries could not officially recognize the existence of the prison at Tazmamart was that the matter came under the discretion of the King. There was no point in the Committee seeking answers from the delegation on such matters.

57. Mr. LIDIDI (Morocco) said that in the television broadcast to which he had just referred the Minister for Human rights had publicly stated that Morocco was in the process of clearing up the matter and dealing with the question of compensation. The issue of further inquiries into accountability was a matter for the crown procurator to decide.

58. The CHAIRMAN invited the delegation of Morocco to take up section III of the list of issues, which read:

"III. Freedom of movement and expulsion of aliens; freedom of religion, expression, assembly and association; political rights and rights of persons belonging to minorities (arts. 12, 13, 18, 19, 21, 22, 25 and 27)

(a) What legal provisions govern the expulsion of aliens and does an appeal against an expulsion order have suspensive effects?

(b) Please comment on the main differences in the status of Islam and other religious denominations. Have there been any cases of discrimination against non-Muslim believers during the period under review and, if so, what measures have been taken to prevent the recurrence of such acts? What progress has been made in the treatment of Baha'is?

(c) Please provide information on measures taken to implement the recommendations of the national symposium on problems affecting the news, information and communications services, referred to in paragraph 81 of the report, particularly those implying amendments of the national legislation to adapt it to the relevant provisions of international covenants, conventions and standards.

(d) In the light of the indirect parliamentary elections held in September 1993, the results of which are analysed in document CCPR/C/76/Add.4, please clarify what are the criteria and procedures for the registration of political parties and why are so few women elected to Parliament.

(e) What factors and difficulties, if any, exist with respect to the implementation and enjoyment of the rights under article 27 of the Covenant?"

59. Mr. MAJDI (Morocco), referring to question (a) on expulsion of aliens, said there was free access to Moroccan territory. Upon arrival in Morocco, a foreigner simply had to provide proof to the police of his identity, most recent domicile, means of subsistence and reasons for travelling to Morocco. He must present a valid passport with a visa, if applicable. A Dahir on immigration adopted on 15 November 1934 outlined the cases in which expulsion could take place: illegal residence, clandestine entry, lack of means of subsistence, or exercise of professional activity in a region or town other than the one for which authorization had been given, for example. Expulsion was pronounced by administrative order and carried out by the State security forces. Anyone affected by an expulsion order could submit a petition to the Directorate-General of National Security, which had a specialized unit for such matters, for review of the case. The Director-General of National Security would then confirm or overturn the expulsion order. In case of confirmation, a foreigner could lodge an appeal against the measure with the administrative courts, but that remedy did not have a suspensive effect.

60. Turning to question (b) concerning differences in the status of Islam and other religious denominations, he said Moroccan nationals or citizens of other countries who were followers of revealed religions - Muslims, Christians or Jews - benefited from total freedom to practise their religion and from respect for their beliefs and the sacraments of their faith. Unlike the situation in other countries, Jews and Christians of Moroccan nationality were not covered by the rules regarding personal status and inheritance of personal property. In that respect, three separate sets of rules governed the inheritance rights of Moroccan Muslims, Jews and citizens who were neither Muslims nor Jews. The regulations were rooted in history: Morocco had initially been inhabited solely by Muslim and Jewish communities.

61. In conformity with Islamic principles of tolerance, Jews in Morocco had their own rabbi-judges and notaries. Within the Ministry of Justice there was a counsellor for Jewish family problems and inheritance issues who was sometimes called abroad to provide assistance.

62. A Moroccan Muslim woman could marry a Jewish or Christian man only if he converted to Islam; by contrast, a Moroccan Muslim man could marry a Jewish or Christian woman even if she did not convert. Since the rules for inheritance were different depending on whether Muslims, Jews or Christians were involved, the religious statutes prohibited inheritance between Muslims and non-believers. Moroccan consulates and embassies abroad disseminated information to foreign women who wished to marry Moroccan men about the problems of inheritance that could arise if a woman did not convert to Islam.

63. The Baha'i faith was not a revealed religion and was consequently considered a heresy by Islam. Public exercise of that faith constituted an offence to the entire Moroccan population and could result in public disorder and foment anarchy. The sect was nevertheless free to practise its faith in private: no attempt was made to uncover a person's innermost convictions, as had been the case with the Inquisition during the Middle Ages.

64. Turning to question (c), he said freedom of the press and information was governed by a Dahir of 1958. In order to examine problems in that area, a national symposium had been held from 29 to 31 March 1993 and had been attended by representatives of all political, civil, trade union and cultural groups. A follow-up committee had been established to give effect to the recommendations emerging from the meeting. In close collaboration with the National Press Union and the Ministry of Information, the committee had drafted a number of legal texts that had been submitted to the various bodies concerned for comment. The texts included a draft law on professional journalists, intended to amend the law of 1942; two decrees for practical implementation of the law, and relating to the provision of press cards; a draft decree for the establishment of a Higher Institute for Information and Communication; a draft statute on the staff of the Moroccan press agency; draft legislation on the cinematographic and photographic industries; and a draft law for the establishment of a Higher Council on Information. Other texts were being prepared with a view to adapting Moroccan legislation to the relevant international instruments, notably the International Covenant on Civil and Political Rights.

65. With regard to question (d), he quoted articles 3 and 9 of the Constitution concerning the role of political parties and the freedom to join trade unions and political organizations. A Dahir of 15 November 1958 governed the right of association and indicated that individuals could form associations freely, provided a declaration was made to the public prosecutor's office of the court of first instance and to the local authority. The declaration had to include the name and purpose of the association as well as information on the civil status of the founder members. Once the declaration was made, the association became a legal person and gained the right to acquire and own facilities and equipment as well as to administer contributions from its members. The Dahir also provided that associations set up for a cause or purpose that was contrary to the law or morality or jeopardized the territorial integrity or monarchical structure of the State

were nugatory. Under the Dahir, political parties were treated in the same way as associations, with a few exceptions: they were required to submit their statutes to the authorities and could not acquire the status of associations serving the public interest.

66. There were two women in the Moroccan Parliament: one of them headed the Parliamentary Commission on Health and Social Affairs. The low percentage of women in Parliament did not result from deliberate discrimination against women. The Constitution and legislation in force established equality between men and women, inter alia in respect of political rights and eligibility for public office. However, a number of socio-economic and cultural factors had resulted in the low representation of women. It must be recalled that the country was evolving from a traditional society to a modern one: that was a fairly complex operation, for which a great deal of time was required. Attitudes and traditions that worked against women's rights could not be changed by simple laws and decrees: only over time, and through various social and economic measures, could a new outlook be formed.

67. Turning to question (e), he said there was no such thing as a minority in Morocco, if that term was taken to refer to a group deprived of certain rights owing to its domination by a majority. The two groups on which questions were usually asked in that context were the Jews and the Berbers. The Jews had always been well represented in Morocco, both numerically and in the important positions they held, and since independence, their involvement in public life had increased still further. In the first Government of independent Morocco, a Jew had been appointed Minister of Postal Services and Telecommunications. The Ministry of Foreign Affairs had always employed a great many Jews. In 1958, 15 per cent of the highest posts in the country had been held by Jews, and five judges had been Jews. Today, the posts of President of the Administrative Chamber of the Supreme Court, Counsellor to the King and Minister of Tourism were held by Jews.

68. Moroccan Jews thus formed an integral part of the population. They spoke the country's language, conformed to its regulations and lived through the same political, social and economic events as other citizens of the country. While Jews had suffered constant persecution in some countries, they had always been able to find refuge in Moroccan territory. Moroccan Jews were covered by the same laws and regulations as Muslims, although matters relating to personal status and inheritance were subject to Jewish religious law.

69. With regard to the Berbers, he explained that the term designated North African populations who expressed themselves in tongues other than Arabic. The Berber identity was as integral a part of the Moroccan nation as was the country's Arabic heritage. Indeed, Berbers who had already converted to Islam had triggered the conversion of the entire country. The Berber chieftains had adopted Arabic as the language of administration. It was precisely to protect that heritage and in response to the concerns of associations for the defence of Berber culture that, in a speech to the nation on 20 August 1994 the King had called for the protection and promotion of all regional cultures in linguistic, artistic and cultural matters and for the preservation of all the historic components of the Moroccan identity. In that speech, he had ordered that the Berber language should be taught in school alongside the Arabic language.

70. Mr. POCAR thanked the Moroccan delegation for its explanations. He requested clarification as to whether the Dahir of 10 April 1973 had abrogated the Dahir of 15 November 1958 on public assemblies. As he understood it, the Dahir of 1973 accorded the Administration discretionary powers to suspend publications on the grounds that they undermined public order. What remedies were available to individuals affected by a decision that restricted their freedom of expression, assembly or association on grounds that those activities might undermine public order? Had any cases involving such measures come up? He would also like to know whether it was true, as NGOs had indicated, that publication of some newspapers had recently been suspended. Noting that there were also reports that some journalists who had criticized the Government in the press or on television had been imprisoned on account of their opinions, he asked whether that was true, and whether cases of that nature often occurred.

71. Turning to participation in public life, he welcomed the information that general elections had been held. The results of the legislative elections in 1993 were not easy to understand, and he would welcome further explanations. For example, in paragraph 131 of the report it was indicated that some 7 million electors had voted, but that 930,000 ballots had been invalid. The ratio of invalid ballots was thus around 12 per cent, which seemed rather high. As the Moroccan delegation itself had noted, the percentage of women candidates had been extremely small, which showed that much remained to be done to involve women in the political life of the country.

72. Mrs. HIGGINS thanked the Moroccan delegation for addressing the issue of minorities in such a frank and open manner. She welcomed the liberal approach to the revealed religions and was encouraged by the news that minorities and foreigners were entitled to exercise their ethnic, religious, cultural and linguistic rights in Morocco. The response to the question relating to the Baha'i faith had been merely a repetition of what had been said during the consideration of the second periodic report: namely, that that faith was a heresy and that its followers had the right to worship privately but not in public, because that would create disorders. She recalled that article 18 (3) of the Covenant dealt with the right, not only to practise a faith in private, but to "manifest" one's beliefs. She also referred to the Committee's general comment on article 18, which indicated that no value judgements should be made by a State concerning what was a proper religion and what was a heresy: all beliefs of individuals had to be accorded equal respect. She hoped to be able to find that progress had been made in such matters when the Committee and the Moroccan delegation came to consider the next periodic report.

73. There had been indications of problems relating to freedom of expression and peaceful demonstration - in connection with the Berber community, and in terms of the grounds for arrest. It also appeared that individuals belonging to unauthorized organizations or ones that criticized the monarchy or the authorities were subject to unlawful arrest. She would be interested to hear how the right of peaceful assembly was protected, what sort of associations had to receive authorization for their activities, why individuals could be arrested for belonging to unauthorized associations and how the right to criticize the authorities was safeguarded.

74. Mrs. EVATT welcomed the detailed information provided in response to the questions in section III of the list of issues. It would appear that the rules regarding inter-faith marriage did not ensure the right of individuals freely to found a family. Perhaps civil legislation should be adopted to further the exercise of that right.

75. It had been indicated that a wife no longer needed the consent of her husband for a passport to be issued. Yet the husband still had the right to oppose his wife's application for a passport. It was important for the Committee to learn on precisely what legal grounds a passport could be refused, so that it could determine whether those provisions were in compliance with article 12 of the Covenant.

76. In connection with article 13 of the Covenant, she welcomed the evidence of a commitment to implement the recommendations arising from the symposium on problems affecting the news, information and communications services. There had been complaints, however, that the Government's power to register, seize or ban publications was exercised in a very broad way, in order to control or avert criticism of basic institutions or governmental actions. The grounds for the exercise of that power should be elucidated.

77. Turning to article 19 of the Covenant, she asked whether academic appointments were subject to ministerial approval, and if so, what was the justification for that measure.

78. The information provided on measures to implement article 25 was very encouraging indeed. Together with the changes effected in the Constitution to make the Government more accountable to Parliament, those measures suggested that real strides were being made towards political maturity and democracy. Yet there were a number of questions that arose in relation to the 1993 elections. Firstly, the results of the direct elections, which had been largely favourable to the opposition, had been entirely different from those of the indirect elections. As she understood the electoral system, one third of the members of the House of Representatives was elected by representative colleges accounting for 15,000 to 16,000 eligible voters. The remaining two thirds were elected by the totality of eligible voters, numbering approximately 11 million. It would thus appear that some members of the electorate were voting twice, and one could in general question whether the electoral provisions were in compliance with the requirements in article 25 (b) for universal and equal suffrage. She would urge the Moroccan delegation to consider those matters.

79. Mrs. CHANET recalled that, during the consideration of the second periodic report, the Committee had been taken aback by the Moroccan delegation's response to its questions on treatment of members of the Baha'i faith. She hoped that the discussion of the same issue now would show that the situation was more in line with article 18 of the Covenant. On that occasion, the Committee had also raised the question of the Oufkir family and had been told that no administrative measures had been taken to restrict the freedom of movement of members of that family. She asked whether that was still the case and whether members of that family now possessed a passport.

The meeting rose at 6 p.m.